

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CARL HARRISON,

Movant

v.

CIVIL ACTION NO. 2:05-1150
(Criminal No. 2:97-00143-04)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

Pending is movant's motion for modification of an imposed term of imprisonment pursuant to 18 U.S.C. § 3582(c), filed November 16, 2005.

Movant seeks the modification of his 170-month term of imprisonment, imposed following his guilty plea to charges of (1) distribution of cocaine base, in violation of 21 U.S.C. § 841(a)(1), and (2) aiding and abetting money laundering, in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i) and 2. The movant's direct appeal was unsuccessful. United States v. Harrison, No. 98-4259 (4th Cir. Jul. 16, 1999), cert. denied, 529 U.S. 1030 (2000). As noted by the magistrate judge, movant has unsuccessfully attempted on many occasions since that time to collaterally attack his conviction and sentence.

The court received the proposed findings and recommendation of the magistrate judge filed on January 5, 2006, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). On January 13, 2006, movant objected.

II.

The movant contends his sentence should be reduced pursuant to United States v. Booker, 125 S.Ct. 738 (2005). As correctly noted by the magistrate judge, however, section 3582(c) is not an appropriate vehicle for asserting such a claim. As additionally noted by the magistrate judge, our court of appeals has previously held that neither Booker nor Blakely v. Washington, 542 U.S. 296 (2000), are available to those seeking post-conviction relief. United States v. Morris, 429 F.3d 65, 72 (4th Cir. 2005). The magistrate judge has properly resolved the matter in view of controlling precedent as it now exists.

Based upon the foregoing, and the proposed findings and recommendation of the magistrate judge, which are hereby adopted and incorporated herein, the court concludes that movant is not entitled to relief and that the section 3582(c) motion should be denied.

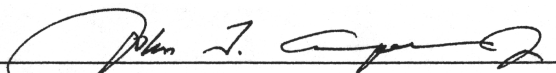
III.

It is, accordingly, ORDERED that the movant's motion pursuant to 18 U.S.C. § 3582(c) be, and it hereby is, denied. It is further ORDERED that this action be, and it hereby is, dismissed and stricken from the docket.

Pursuant to Federal Rule of Appellate Procedure 4(a)(1)(B), movant shall have sixty days after the date of entry of this decree in which to appeal. The failure within that period to file with the Clerk of this court a notice of appeal of this Judgment will render the memorandum opinion and order and this Judgment final and unappealable.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record, and the magistrate judge.

ENTER: July 19, 2006



John T. Copenhaver, Jr.
United States District Judge